

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEVEN A. McLEOD,	§
	§ No. 317, 2011
Plaintiff Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
HUGHEY F. McLEOD,	§ in and for New Castle County
	§ C.A. No. 11C-03-111
Defendant Below-	§
Appellee.	§

Submitted: April 18, 2012

Decided: June 15, 2012

Before **HOLLAND, BERGER**, and **JACOBS**, Justices

ORDER

This 15th day of June 2012, upon consideration of the Superior Court's opinion on remand, the appellant's supplemental memorandum, and the record on appeal,¹ it appears to the Court that:

(1) The appellant, Steven McLeod, filed this appeal from a Superior Court judgment dismissing his complaint on the ground that it was barred by the applicable statute of limitations. In his opening brief on appeal, McLeod argued that the Superior Court erred in dismissing his complaint because the statute of limitations had been tolled. After consideration, we remanded the matter for consideration of the merits of McLeod's equitable tolling argument.

¹ The appellee did not file an answering brief or supplemental memorandum. Accordingly, the Clerk of the Court informed the parties that the appeal would be decided on the basis of the opening supplemental memorandum and the record below.

(2) The Superior Court issued its opinion on remand on February 6, 2012. Following a thoughtful and comprehensive review of the law, the Superior Court determined that the statute of limitations should be equitably tolled in McLeod's case and that his cause of action should be permitted to go forward. We agree with the Superior Court's legal conclusion² that the statute of limitations was equitably tolled under the circumstances of this case.

NOW, THEREFORE, IT IS ORDERED that the Superior Court's June 7, 2011 order dismissing McLeod's complaint as barred by the statute of limitations is hereby VACATED. The Superior Court is directed to reinstate McLeod's cause of action pursuant to its February 6, 2012 opinion on remand, which is hereby AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

² McLeod argues that the Superior Court's decision on remand contains erroneous factual findings. We do not address these claims because they are not relevant to the outcome of this appeal.